

### III. REMARKS

1. Claims 16, 17, 22, 25, and 30-32 are amended. Claims 33 and 34 are new.
2. Claims 16, 17, 22-24 and 30-32 are amended to address the noted objections.
3. Claims 17, 23, 24, 31 and 32 are amended to address the 35 U.S.C. § 112, second paragraph rejections. The claims should now be allowable as indicated by the Examiner.
4. Claims 17-20 and 25-28 are not anticipated by Ejzah et al. ("Ejzak") under 35 U.S.C. §102(b).

Claims 17 and 25 are amended to recite means for transmitting identification data of lost convergence protocol packets on the link layer to the network element in response to the "acknowledgement indicating that the link layer is not capable of securing a reliable transmission of the convergence protocol packets". This is not disclosed or suggested by Ejzak.

Ejzak discloses a data packet transmission system, wherein a transmitter retransmits all unacknowledged data packets after a transmission window has been closed. The retransmission is continued until the window reopens or a receiver sends an acknowledgement message of successful reception. Thus, Ejzak discloses a completely different system compared to the present invention, in which only identification data of the data packets is sent to the receiver.

Ejzak does not disclose or suggest that the identification data of the lost convergence protocol packets is transmitted only

when the acknowledgements from the network element indicate that not all data packets were received correctly.

Thus, claims 17 and 25 should be allowable. Claims 18 and 20 and 26-28 should be allowable at least by reason of their respective dependencies.

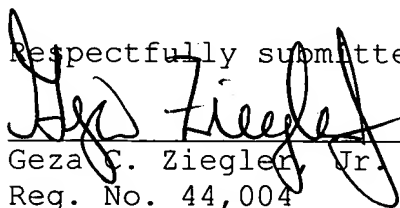
5. Claims 21 and 29 are not unpatentable over Ejzak in view of Wager et al (US Patent No. 6,519,223 under 35 U.S.C. §103(a) at least by reason of their respective dependencies.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check for \$100.00 is enclosed for the additional claims fee.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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10 Feb 2004  
Date

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